

REMARKS

Summary

Claims 1, 3-7, 9-13, 15-16, and 18 stand in this application. Claims 2, 8, and 14 have been canceled without prejudice. Claims 1, 7, and 12 have been amended. No new matter has been added. Support for the current amendments can be found within the Specification at least at page 9, paragraph 3; page 10, paragraphs 1-2. Favorable reconsideration and allowance of the standing claims are respectfully requested.

35 U.S.C. § 103

At page 2, paragraph 5 claims 1-5, 7-10, 12-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuo (U.S. Patent No. 6,600,824) in view of Birchfield et al. (U.S. Patent Pub. No. 2002/0097885) in further view of Weinberger (U.S. Patent No. 1,897,222). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicant has cancelled claims 2, 8, and 14 and has incorporated their subject matter into claims 1, 7, and 12, respectively. Therefore, the obviousness rejection with respect to claims 2, 8, and 14 will be addressed below with respect to amended claims 1, 7, and 12.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of

ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claim 1. Therefore claim 1 defines over Matsuo in view of Birchfield et al. in further view of Weinberger whether taken alone or in combination. For example, claim 1 recites the following language, in relevant part:

multiple reflectors having acoustically reflective surfaces of an irregular shape that provide additional phase variation, resulting in improved spatial distinction during analysis, said reflectors structured and arranged to reflect the acoustic waves in a direction of the first microphone and the second microphone....

As correctly noted in the Office Action, reflecting the acoustic waves in a direction of the first microphone and the second microphone is not disclosed by Matsuo as modified by Birchfield (Page 4, Paragraph 2). According to the Office Action, the missing language is disclosed by Weinberger at Figure 1. Applicant respectfully disagrees.

The Weinberger reference fails to disclose the missing language of claim 1. For example, the Weinberger reference at the given cite, shows only a single reflector. (Figure 1) By way of contrast, claim 1 recites multiple reflectors. Furthermore, the Weinberger reference discloses only reflectors that are geometrically or regularly shaped. (Page 2, lines 18-29). The claimed subject matter, however, comprises reflectors of an irregular shape that provide additional phase variation, resulting in improved spatial distinction during analysis. The Weinberger reference also fails to disclose the phase variation and analysis of the reflected sound waves. Consequently, Weinberger fails to disclose, teach or suggest the missing language. Accordingly, Matsuo in view of Birchfield et al. in further view of Weinberger, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1.

Claims 7 and 12 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7 and 12 are patentable and non-obvious over Matsuo in view of Birchfield et al. in further view of Weinberger for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 1, 7, and 12.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claims 1, 7, and 12 is respectfully requested. Claims 3-6, 9-11, 13, 15-16, and 18 also are non-obvious and patentable over Matsuo in view of Birchfield et al. in further view of Weinberger, taken alone or in combination, at least on the basis of their dependency from claims 1, 7, and

12. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

Claims 3-5, 9-10, 13, 15-16 also are patentable and non-obvious over Matsuo in view of Birchfield et al. in further view of Weinberger, whether taken alone or in combination, because a rejection based on obviousness under 35 U.S.C. § 103(a) is improper without a motivation to combine the cited references. *See* MPEP § 2142, for example. In the present case, the Office has failed to meet its initial burden to provide some suggestion or motivation that it is desirable to do what the Applicant has done. The Office also has failed to support its conclusion of obviousness by failing to present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the claimed invention to have been obvious in view of the teachings of the cited references. Rather, the Office merely concludes that it would have been obvious to make the alleged combination without providing any reasoning at all as to why the alleged combination would have been desirable to a person of ordinary skill in the art. Without the benefit of the Office's reasoning as to the motivation to combine the cited references, Applicant is unable to analyze the merits of the Office's reasoning.

Conclusion

For at least the above reasons, Applicant submits that claims 1, 3-7, 9-13, 15-16, and 18 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

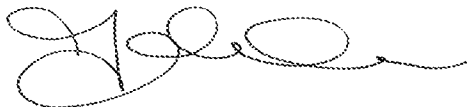
Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 3-7, 9-13, 15-16, and 18 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

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Under 37 CFR 1.34(a)

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